

X

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE H.L. DATTU

WRIT PETITION NO.17525/1998

BETWEEN:

H.N. Sampath Kumar  
S/o A.S. Narasimhachar  
aged about 40 yrs.  
Asst. Engineer (Mech)  
Office of the ECEDT  
Karnataka Power Corporation  
Sudarshan Complex, 22/23  
Seshadri Road, Bangalore.

460

.... Petitioner.

(By Sri Janardhan G. Adv.)

AND:

1. The Managing Director  
Karnataka Power Corporation Ltd.  
Shakthi Bhavan, No.82  
Race Course Road,  
Bangalore-560 001.

2. K. Sudheendra  
Executive Engineer (Elect)  
and Enquiry Officer  
Office of the ECEDT,  
Karnataka Power Corporation  
Ltd. Sudharshan Complex  
No.22/23, Seshadri Road  
Bangalore.

.... Respondents.

---

This W.P. is filed under Art.226 of the  
Constitution of India, praying to quash Annexure A  
dated 22.5.1997, etc.

This W.P. coming on for Preliminary hearing  
this day, the Court made the following:

11/

461

ORDER

Petitioner is an Asst. Engineer (Mechanical) working in the office of the Karnataka Power Corporation, Bangalore. He is before this Court mainly aggrieved by the initiation of proceedings by the respondent-authority for the purpose of holding a domestic enquiry by issuing a charge memo dated 22.5.1997. Petitioner is also seeking a direction to the respondents to furnish the petitioner all the documents sought for by him under Annexure K. Lastly, to direct the respondents-disciplinary authority to keep the witnesses whose names are mentioned by the petitioner in the list of witnesses submitted at the time of recording of evidence during the enquiry proceedings.

2. In support of the first relief, it is stated that the charge memo does not disclose any misconduct for which the charges are framed and therefore the initiation of domestic enquiry proceedings is bad and illegal. This assertion in my view has no merit. The Supreme Court in the case of THE DEPUTY INSPECTOR

11/

GENERAL OF POLICE VS. K.S. SWAMINATHAN reported  
at 1997(1) SLR 176 was pleased to observe as  
under:

"4. It is settled law by catena of decisions of this Court that if the charge memo is totally vague and does not disclose any misconduct for which the charges have been framed, the Tribunal or the Court would not be justified at that stage to go into whether the charges are true and could be gone into, for it would be a matter on production of the evidence for consideration at the enquiry by the enquiry officer. At the stage of framing of the charge, the statement of facts and the charge sheet supplied are required to be looked into by the Court or the Tribunal as to the nature of the charges i.e., whether the statement of facts and material in support thereof supplied to the delinquent officer would disclose the alleged misconduct. The tribunal, therefore, was totally unjustified in going into the charges at that stage. It is not the case that the charge memo and the statement of facts do not disclose any misconduct alleged against the delinquent officer. Therefore, the Tribunal was totally wrong in quashing the charge memo. In similar circumstances, in respect of other persons involved in the same transactions, this Court in appeals arising out of SLP (C) Nos.19453-53 of 1995 had on February, 9, 1996 allowed the appeals, set aside the

263

orders passed by the Tribunal and remitted the matter holding that:

"This is not the stage at which the truth or otherwise of the charges ought to be looked into. This is the uniform view taken by this Court in such matters."

5. We respectfully agree with the above conclusion and set aside the impugned order of the Tribunal. The enquiry officer is directed to conduct and complete the enquiry within a period of eight months from the date of the receipt of the order and the disciplinary authority is directed to take action thereon within three months thereafter."

3. In view of the law declared by Supreme Court, it is not proper for me to go into truth or otherwise of the allegations made in the charge memo. Therefore, the first relief sought for by the petitioner is rejected.

4. Secondly, it is contended that there is delay in initiating the domestic enquiry proceedings. Therefore, the charge memo is bad and invalid. To my mind, even this contention has no merit. Petitioner has

11

not even asserted how the delay if at all is there in initiating the proceedings, has caused any prejudice to his case. The Supreme Court in the case of B.C. CHATURVEDI VS. UNION OF INDIA reported at 1995(5) SLR 778 was pleased to observe that delay in initiating the proceedings is not fatal in all cases. It depends on facts and circumstances of each case.

5. Lastly, it is contended that the disciplinary authority erred in deciding to hold second enquiry for the alleged incident when the earlier enquiry held through one Mahadeva Gowda as the inquiry officer has already given a report to first respondent stating that the responsible persons for the alleged incident is the Asst. Executive Engineer (M) and that report has been accepted by Karnataka Power Corporation and action is taken against the said officer and the matter is closed. In my view, even this submission has no merit for the reason, this is not the case where second enquiry is being held against

the petitioner for the same offence. An enquiry had been ordered against some other official of Karnataka Power Corporation may be for the same offence and that does not prohibit the disciplinary authority to hold a domestic enquiry against the petitioner for the alleged lapses mentioned in the charge memo.

6. In so far as other reliefs are concerned, the delinquent officer can take up all those contentions either before the enquiry officer at the time of enquiry or after completion of the enquiry and the final orders, before the appropriate forum.

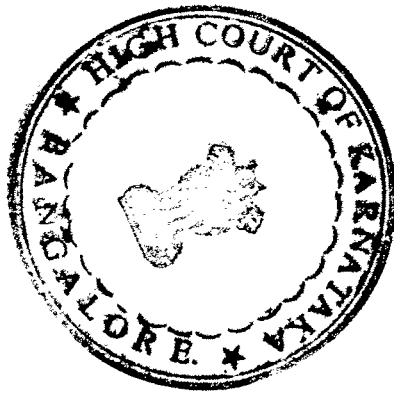
7. In that view of the matter, the writ petition so filed by the petitioner is wholly premature. Accordingly, writ petition is rejected. All the contentions raised by the petitioner in this writ petition are left open. Petitioner is also given liberty to approach the appropriate forum immediately after the final order that would be made by the disciplinary authority.

71

..7..

466

8. With these observations and directions,  
writ petition is disposed of. Ordered accordingly.



Sd/-  
JUDGE

BMM/-